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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORTH PENN WATER AUTHORITY
200 North Chestnut Street
Lansdale, PA 19446,

Plaintiff

v.

LEEDS & NORTHRUP COMPANY
Unit of General Signal Corp.
Sumneytown Pike
North Wales, PA 19454

and

TELEFLEX INCORPORATED
Defense Aerospace Division
Church Road
North Wales, PA 19454

and

SPRA-FIN, INC.
Wissahickon Avenue
North Wales, PA 19454

and

JACK H. GOODYEAR
1107 Lansdale Ave.
Lansdale, PA 19446

and

SCHENK ENTERPRISES
Shady Lane & Rockledge Avenue
Rockledge, PA 19111

and

FORD ELECTRONICS AND
REFRIGERATION CORPORATION
Church Road
Lansdale, PA 19446,

Defendants

CIVIL ACTION NO. 94-CV-4055

FILE JUN 30 1994

AR000207

COMPLAINT

I. NATURE OF ACTION, JURISDICTION AND VENUE

1. This is an action for response costs, clean-up costs, costs of removal, damages and equitable relief under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq. (hereinafter "CERCLA"), the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq. (hereinafter "RCRA"), and pendent claims arising under the laws of Pennsylvania.

2. Jurisdiction is vested in this Court by virtue of the presence of a federal question, 28 U.S.C. §1331, under CERCLA and RCRA, 42 U.S.C. §9613(b) and 42 U.S.C. §6972(a).

3. Venue is proper in this district pursuant to 42 U.S.C. §6972(a) and §9613(b).

II. THE PARTIES

4. The Plaintiff, North Penn Water Authority (the "Authority"), is a body corporate and politic, organized and existing under the provisions of the Pennsylvania Municipality Authorities Act of 1945, as amended, 53 P.S. 301 et seq. The Authority owns and operates a public water system as defined at 42 U.S.C. §300f(4), producing and distributing water to consumers in the Boroughs of Lansdale, Hatfield, New Britain and Souderton, and, inter alia the Townships of Franconia, Hatfield, Lower Salford, Towamencin, Worchester, Skippack, Hilltown, Montgomery, Upper Gwynedd, New Britain and East Rockhill.

5. Defendant, Leeds & Northrup Company, is a corporation organized and existing under and by virtue of the laws of the State of Delaware with a principal place of business located at Sumneytown Pike, North Wales, Montgomery County, Pennsylvania.

6. Defendant, Teleflex Incorporated, is a corporation organized and existing under and by virtue of the laws of the State of Delaware with a principal place of business located at Church Road, North Wales, Montgomery County, Pennsylvania.

7. Defendant, Spra-Fin, Inc., is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a principal place of business located at Wissahickon Avenue, North Wales, Montgomery County, Pennsylvania.

8. Defendant, Jack H. Goodyear is an individual residing at 1107 Lansdale Avenue, Lansdale, PA 19446.

9. Schenk Enterprises is an organization located at Shady Lane & Rockledge Avenue, Rockledge, PA 19111.

10. Defendant, Ford Electronics and Refrigeration Corporation, is a corporation organized and existing under and by virtue of the laws of the State of Delaware with a principal place of business located at Church Road, Lansdale, Montgomery County, Pennsylvania.

III. MATERIAL ALLEGATIONS OF FACT

11. At all times relevant hereto, the North Penn Water Authority owned and operated the Wissahickon Well Field, one well

of which is designated as L-22. The Wissahickon Well Field is located in the southeastern portion of the Borough of Lansdale, and adjacent to portions of Upper Gwynedd Township and Montgomery Township.

12. At all times relevant hereto, the Defendants and/or their predecessors in title owned the ground and/or operated facilities in the vicinity of the Wissahickon Well Field that used volatile organic compounds including, but not limited to, trichloroethylene (TCE), 1,1,1-trichloroethane and perchloroethylene (PCE).

13. At various times material hereto, Defendants and/or their predecessors in title have conducted on or in their facilities activities involving the use, sale, storage, handling, transportation, treatment, recycling, generation and/or disposal of hazardous wastes, hazardous substances, toxic chemical substances, their associated chemicals and their waste products ("pollutants").

14. Said pollutants include, but are not limited to, volatile organic compounds, among which are TCE, 1,1,1-trichloroethane and PCE.

15. Said chemicals are "hazardous wastes" as defined by RCRA and the Pennsylvania Solid Waste Management Act, Act No. 1980-97, 35 P.S. Section 6018.101 et seq., and the rules and regulations promulgated thereunder; and they are "hazardous substances" as that term is defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14), and by the Pennsylvania Hazardous Sites Clean-up Act (hereinafter "HSCA"), Act No. 1988-08, §103, 35 P.S. §6020.103.

16. The pollutants generated, sold, used, handled, stored, transported, recycled and/or disposed of by Defendants and/or their

predecessors in title are toxic to humans, are known or suspected carcinogens, and are associated with other diseases in humans and laboratory animals.

17. The Defendants' and/or their predecessors in titles' acts and omissions in the ownership, operation or control of their facilities have caused releases of the aforesaid pollutants into the soil, surface water and groundwater, in, around, and in the vicinity of their facilities which have traveled through the groundwater system to North Penn Water Authority well L-22. The releases are continuing, and continue to contaminate the groundwater serving well L-22.

18. The Authority discovered certain of the aforesaid volatile organic compounds in well L-22 in amounts which were found to exceed the maximum contaminant levels promulgated by the United States Environmental Protection Agency (hereinafter "EPA") pursuant to the Safe Drinking Water Act, 42 U.S.C. §300f et seq. The Authority is subject to the Act by virtue of 42 U.S.C. §300f(1)(A).

19. As a result of said contamination, the Authority began to take actions and continues to take appropriate actions with regard to the operation of the Wissahickon Well Field including well L-22 in order to continue to supply water to consumers that meets the criteria of the Safe Drinking Water Act, supra.

IV. CAUSES OF ACTION

Count I - CERCLA

20. Plaintiff incorporates by reference the allegations of paragraphs 1 through 19 above as though set forth fully herein.

21. Plaintiff is a "person" as that term is defined in §101(21) of CERCLA, 42 U.S.C. §9601(21).

22. The Defendants' properties described in paragraph 10 are "facilities" as that term is defined in §101(9) of CERCLA, 42 U.S.C. §9601(9).

23. Defendants and each of them are "owners or operators," as defined in §101 (20)(A) of CERCLA, 42 U.S.C. §9601(20)(A), of said "facilities" as that term is defined in §101(9) of CERCLA, 42 U.S.C. §9601(9).

24. Section 107(a) of CERCLA provides that the owners or operators of a facility shall be liable for all necessary costs of response incurred by any other person consistent with the National Contingency Plan ("NCP").

25. As a result of the release from Defendants' facilities of hazardous substances, Plaintiff has incurred and will continue to incur removal and response costs which are consistent with the NCP.

26. Said removal and response costs include, but are not limited to, the costs of obtaining alternate water supplies, monitoring of wells and other waters, soil testing, water testing, treatment of the water, determining the source of and cause of the contamination and preparing plans to protect the water supplies.

WHEREFORE, Plaintiff demands judgment against Defendants individually, jointly and severally for all response costs incurred consistent with the NCP and to be incurred by Plaintiff, and a declaratory judgment pursuant to 42 U.S.C. §9613(g)(2) that Defendants are liable for all response costs to be incurred in the future, together with attorneys' fees, interest, costs and any other relief to which Plaintiff may be entitled.

Count II - RCRA

27. Plaintiff incorporates by reference the allegations of paragraphs 1 through 26 above as though set forth fully herein.

28. Plaintiff and Defendants are "persons" as that term is defined in §1003(15) of RCRA, 42 U.S.C. §6903(15).

29. In violation of 42 U.S.C. §6925(a) Defendants have, without a permit, stored on their facility wastes that are identified or listed as hazardous under RCRA.

30. Defendants have stored on their facilities and continue to store wastes that are identified or listed as hazardous under RCRA in a manner violating the standards specified in Subtitle C of RCRA and the rules and regulations promulgated thereunder.

31. Defendants have disposed of hazardous wastes on or in their facilities, and continue to so dispose them in a manner constituting maintenance of an "open dump," as that term is defined under RCRA.

32. By and through their violation of RCRA, Defendants have created an imminent and substantial endangerment to the health of

the public in general and users of water from the North Penn Water Authority and/or to the environment in violation of 42 U.S.C. §6973.

33. Plaintiff has given the notice to Defendants required pursuant to 42 U.S.C §6972(b).

WHEREFORE, Plaintiff demands a declaration of liability against Defendants under RCRA, the issuance of an injunction requiring Defendants to abate the violations described above, and attorneys' fees and other costs of litigation and recovery of costs expended by plaintiff to abate the violations.

Count III - Strict Liability

34. Plaintiff incorporates by reference the allegations of paragraphs 1 through 33 above as though set forth fully herein.

35. Defendants' use, storage, handling, mishandling, transportation, generation, recycling and/or disposal of hazardous substances or hazardous wastes comprise abnormally dangerous and/or ultra-hazardous activities, the nature of which subjects the actor to strict liability for all resultant harm.

36. As a result of Defendants' actions, Plaintiff has suffered the harm averred.

WHEREFORE, Plaintiff demands judgment in its favor against Defendants for an amount in excess of \$100,000 plus interest, attorneys' fees and costs.

Count IV - Negligence

37. Plaintiff incorporates by reference the allegations of paragraphs 1 through 36 above as though set forth fully herein.

38. The release of hazardous substances and hazardous wastes from Defendants' facilities, and the subsequent contamination of North Penn Water Authority well L-22, was caused solely by the negligence, gross negligence, recklessness and carelessness of Defendants, their servants, agents and/or employees.

39. The negligence, gross negligence, recklessness and carelessness of Defendants, their servants, agents and/or employees, consisted, inter alia, of the following:

(a) negligence in the generation, use, handling, storage, treatment, transportation and/or disposal of hazardous substances and hazardous wastes;

(b) negligent maintenance of storage tanks containing hazardous wastes and hazardous substances;

(c) negligent failure to inspect said storage tanks;

(d) negligence in the maintenance, repair and/or inspection of other devices, vessels, and systems for the storage of hazardous substances and/or wastes;

(e) negligent operation of a treatment system for waters contaminated with hazardous substances;

(f) creation of unreasonably dangerous conditions on real property in the custody and control of Defendants;

(g) failure to remedy and/or repair said conditions;

(h) failure to warn Plaintiff of said conditions;

(i) failure to observe the applicable ordinances, statutes, rules and regulations of the Commonwealth of Pennsylvania and the United States.

(j) such other negligent acts and omissions as will be ascertained in the course of discovery.

40. Defendants' negligence was committed in wanton, reckless and outrageous disregard for the rights, safety and health of Plaintiff and the environment of the Commonwealth of Pennsylvania.

41. Plaintiff suffered the harm averred above as a result of the gross negligence, negligence, recklessness, and carelessness of Defendants, their servants, agents and employees and/or the gross negligence, negligence, recklessness and carelessness of their predecessors in title.

WHEREFORE, Plaintiff demands judgment in an amount in excess of \$100,000, plus punitive damages, interest, attorneys' fees and costs.

Count V - Nuisance

42. Plaintiff incorporates by reference the allegations of paragraphs 1 through 41 above as though set forth fully herein.

43. Defendants' acts and omissions averred above have invaded and interfered with Plaintiffs' rights in its control and possession of its property.

44. Defendants' acts and omissions have interfered with the public's right to safe drinking water.

45. As a result of said public and private nuisance, the Plaintiff has had to incur expense and continues to incur expense for temporary remedial measures, for testing, monitoring, obtaining alternate water supplies, treatment, determining the cause of pollution, obtaining information and preparing plans for remediation, and has not been able to put well L-22 to its full beneficial use.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants in an amount in excess of \$100,000, plus interest, attorneys' fees and costs.

Count VI - HSCA

46. Plaintiff incorporates by reference the allegations of paragraphs 1 through 45 above as though set forth fully herein.

47. Plaintiff and Defendants are "persons" as defined in the Pennsylvania Hazardous Sites Cleanup Act ("HSCA"), 35 P.S. §6020.101 et seq. at §6020.103.

48. Defendants are "responsible persons" as defined in HSCA at 35 P.S. §6020.103 and §6020.701.

49. Section 1115 of HSCA, 35 P.S. §6020.1115, permits a "person" who has experienced property damage as a result of a release of hazardous substances to file a civil action to prevent or abate a violation of HSCA.

50. Further, §507 of HSCA, 35 P.S. §6020.507, provides that responsible persons and persons who cause a release of hazardous substances shall be liable for response costs.

51. Section 702 of HSCA, 35 P.S. §6020.702, provides for strict liability for response costs and damages, for interim response, remedial response and for costs.

52. Defendants have caused or permitted a release or threatened release of hazardous substances that have polluted Plaintiff's well L-22 and are therefore strictly liable under HSCA for damages, response costs, and costs for assessing the loss.

53. Plaintiff has given the appropriate notice pursuant to 35 P.S. §6020.1115(b).

WHEREFORE, Plaintiff demands judgment against all Defendants, individually, jointly and severally to abate the contamination, and for recovery of all Plaintiff's damages, response costs, interest, attorneys' fees and costs.

Count VII - Storage Tank And Spill Prevention Act

54. Plaintiff incorporates by reference the allegations of Paragraphs 1 through 53 above as though set forth fully herein.

55. Plaintiff is a "person" whose interest has been affected as set forth in the Pennsylvania Storage Tank and Spill Prevention Act ("the Act"), 35 P.S. §6021.101 et seq. at §6021.1305(c).

56. Upon information and belief, some or all of the contamination described above has been caused by the leaking of or spilling from tanks owned or operated by Defendants.

57. Defendants are in violation of the Act because they have failed to comply with the requirements of the Act and have failed

to abate the public nuisance caused by leaking tanks or spills therefrom.

58. Plaintiff has provided the Notice required by the Act, 35 P.S. §6021.1305(d).

WHEREFORE, Plaintiff demands judgment of liability against Defendants, and an injunction requiring them to abate the violations of the Act, for costs to compel compliance with the act, costs for corrective action, and for costs of litigation, including attorneys' fees and expert witness fees, and interest.

Count VIII - RCRA (Tanks)

59. Plaintiff incorporates by reference the allegations of Paragraphs 1 through 58 above as though set forth fully herein.

60. Upon information and belief, some or all Defendants own or operate or at all relevant times owned or operated, underground storage tanks regulated by 42 U.S.C. §6991 et seq.

61. Defendants are in violation of the requirements of said sections of RCRA and the regulations promulgated thereunder.

62. Defendants have failed to take corrective action required by RCRA and the regulations.

WHEREFORE, Plaintiff demands judgment of liability against Defendants, and for an injunction requiring them to abate the violations of RCRA and for costs of litigation, including attorneys' fees and interest.

Count IX - Clean Streams Law

63. Plaintiff incorporates by reference the allegations of Paragraphs 1 through 62 above as though set forth fully herein.

64. The acts or omissions of Defendants described above have endangered or may endanger the waters of the Commonwealth, in violation of the Clean Streams Law, 35 P.S. §691.1 et seq and the regulations promulgated thereunder.

65. Plaintiff is a "person" having an interest adversely affected, as set out in 35 P.S. §691.601(c).

66. Plaintiff has given the appropriate notice under 35 P.S. 691.601(e).

WHEREFORE, Plaintiff demands a judgment of liability against Defendants, an injunction ordering them to abate the violation, and costs of litigation, including attorneys' fees and interest.

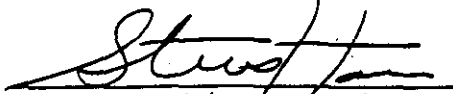
Count X - Negligence Per Se

67. Plaintiff incorporates by reference Paragraphs 1 through 66 above as though set forth fully herein.

68. The violation of the statutes described above by defendants constitutes negligence per se, since plaintiff is among the class of persons the statutes were designed to protect.

69. Plaintiff has been damaged by defendants' negligence per se.

Wherefore, plaintiff demands damages in excess of \$100,000 plus interest, costs and any other relief to which it appears entitled.



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